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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL J. VINCENT and BRENDA
G. WARD,

               Plaintiffs,   Civ. No. 11-3079-PA

                                TEMPORARY RESTRAINING ORDER

   v.

BAC HOME LOANS SERVICING LP
and RECONTRUST COMPANY, N.A.,

               Defendants.

_____

PANNER, J.

     Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on August 15, 2011 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Specifically, plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust

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deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc.,
2011 WL 2119103, *3 (D. Or. May 25) (citing Burgett v. MERS, 2010
WL 4282105, at *2 (D. Or. Oct. 20) and In re McCoy, 2011 WL
477820, at *3-4 (Bankr. D. Or. Feb. 7)). Plaintiffs allege MERS
is listed as the beneficiary on the deed of trust at issue.
(Compl. Ex. A, 1.)

    Because of the alleged imminent foreclosure sale, and
because the presence of MERS demonstrates a high probability that
defendants did not comply with the recording requirements of the
Oregon Trust Deed Act, I grant plaintiffs' request for a
temporary restraining order (#3). Defendants, and their officers,
agents, etc..., and other persons in active concert or
participation with defendants, who receive actual notice of this
order, are restrained from conducting a foreclosure sale for the
following property: 673 Cienaga Lane, Grants Pass, Oregon, from
this day until Thursday, August 18, 2011, at 5:00 p.m. This court
will hold a hearing on whether to issue a preliminary injunction
at 10:30 a.m. on August 18, 2011, in the James A. Redden
Courthouse in Medford.

    IT IS SO ORDERED.

    DATED this ___8___ day of August, 2011.

                          _____
                          OWEN M. PANNER
                          U.S. DISTRICT JUDGE

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